



**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

June 29, 2005

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND FACSIMILE**

Joe Zeidner
General Counsel
1-800 Contacts
66 East Wadsworth Park Drive
3d Floor
Draper, Utah, 84020.
801-858-2113(fax)

RE: EB-05-TC-030

Dear Mr. Zeidner:

This is an official **CITATION**, issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 503(b)(5), for violations of the Act and the Federal Communications Commission's rules that govern, among other things, the use of automatic telephone dialing systems.¹ As explained below, future violations of the Act or Commission's rules in this regard may subject your company to monetary forfeitures.

It has come to our attention that your company has used an automatic telephone dialing system to simultaneously engage more than one line of a multi-line business in violation of the Act and Commission rules. In particular, section 227(b)(1)(D) of the Act and section 64.1200(a)(4) of the Commission's rules prohibit any person within the United States, or any person outside the United States if the recipient is within the United States to "use an automatic telephone dialing system in such a way that two or more telephone lines of a multi-line business are engaged simultaneously."²

¹ 47 U.S.C. § 227; 47 C.F.R. § 64.1200. A copy of these provisions is enclosed for your convenience. Section 227 was added to the Communications Act by the Telephone Consumer Protection Act of 1991 and is most commonly known as the TCPA. The TCPA and the Commission's parallel rules restrict a variety of practices, including the use of automatic telephone dialing systems to contact, for example, emergency telephone lines, hospital patient rooms, and multi-line businesses.

² 47 U.S.C. § 227(b)(1)(D); 47 C.F.R. § 64.1200(a)(4).

The attached information indicates that your company used an automatic telephone dialing system to deliver prerecorded messages that simultaneously engaged more than one telephone line in several multi-line business offices.³ As explained above, this action violates section 227(b)(1)(D) of the Act and section 64.1200(a)(4) of the Commission's rules.

If, after receipt of this citation, you violate the Communications Act or the Commission's rules in any manner described herein, the Commission may impose monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation.⁴

You may respond to this citation within 30 days from the date of this letter either through (1) a personal interview at the Commission's Field Office nearest to your place of business, or (2) a written statement. Your response should specify the actions that you are taking to ensure that you do not violate the Commission's rules governing the use of automatic telephone dialing systems to contact multi-line businesses, as described above.

The nearest Commission field office appears to be the Denver Office in Lakewood, Colorado 80226-1544. Please contact Al McCloud at (202) 418-2499 if you wish to schedule a personal interview. You should schedule any interview to take place within 30 days of the date of this letter. You should send any written statement within 30 days of the date of this letter to:

Kurt A. Schroeder
Deputy Chief
Telecommunications Consumers Division
Enforcement Bureau
Federal Communications Commission
445-12th Street, S.W.
Rm. 4-C222
Washington, D.C. 20554

Reference EB-05-TC-030 when corresponding with the Commission.

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least 5 days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:
202-418-0530 (voice), 202-418-0432 (tty);
For accessible format materials (braille, large print, electronic files, and audio format): 202-418-0531 (voice), 202-418-7365 (tty).

³ Although one complainant lists "contacts.com" as the company involved, Commission staff was redirected to your company's website upon entering the internet address "contacts.com." See Complaint filed by R. Eaves, November 29, 2004.

⁴ See 47 C.F.R. § 1.80(b)(3).

Under the Privacy Act of 1974, 5 U.S.C. § 552(a)(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission's rules.

The knowing and willful making of any false statement, or the concealment of any material fact, in reply to this citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

Thank you in advance for your anticipated cooperation.

Sincerely,

Kurt A. Schroeder
Deputy Chief, Telecommunications Consumers Division
Enforcement Bureau
Federal Communications Commission

Enclosures